



normal day-to-day operational expenses necessary to provide good quality, reliable, water service to the customers of ONSWC consistent with environmental and regulatory requirements.

Stipulation § IV.A. As a result of this provision of the Stipulation, the Public Staff withdrew its recommendation for an infusion of equity to the Company to achieve an actual capital structure of 50% debt and 50% equity and its recommendation for the Company to file audited financial statements for the next three years. Stipulation § IV.B.

On June 13, 2022, the Commission issued its Order Approving Settlement Agreement and Stipulation, Granting Partial Rate Increase, and Requiring Customer Notice (Rate Case Order). In the Rate Case Order, the Commission provided as follows:

That pursuant to N.C.G.S. § 62-34, the Public Staff shall thoroughly review the various sources of funding utilized by ONSWC for its capital and operational needs, the funds disbursed by ONSWC to Chatham North Holdings, Inc., and the relationships, operating agreements, and contracts between and among the Company, Integra, the Integra affiliates, and Chatham North Holdings, Inc.; including whether they are reasonable, appropriate, and in conformity with North Carolina law and Commission Rules, including but not limited to N.C.G.S. §§ 62-153, 62-160, and 62-167. Within six months of the date of this Order, the Public Staff shall make a report to this Commission regarding the Company's compliance with applicable North Carolina law. ONSWC shall have the opportunity to respond to the Public Staff's report within 30 days of the filing of such report. Additionally, the parties shall work together to create a plan to improve the capitalization of the Company, and the parties shall make a report to the Commission within six months of the date of this Order regarding the recapitalization plan[.]

Rate Case Order at 32.

On July 22, 2022, the Company filed Old North State Water Company Objection to Discovery (Objection), stating its objections to a portion of one of the Public Staff's data requests, item 12 of Data Request 73, which sought a Statement of Net Worth of John McDonald, along with continuing updates of such statements. The Company asserts that Integra LLC, and not Mr. McDonald personally, has made a commitment to fund the Company's operations. The Company states that it finds the request unwarranted and abusive in that Mr. McDonald's personal financial information would be disclosed to members of the Public Staff "who have taken positions adverse to him in several dockets." Objection at 6. The Company notes that in another docket, Docket No. W-1300, Sub 78, the Public Staff made and then withdrew a similar request. The Company seeks an order from the Commission stating that it need not provide the information requested in item 12 of the Public Staff's Data Request 73 and that the Public Staff shall not conduct discovery on Mr. McDonald's personal finances in the future.

The Public Staff filed the Motion of Public Staff to Compel on August 2, 2022 (Motion). In the Motion, the Public Staff notes that the Commission had directed it to “thoroughly review the various sources of funding utilized by ONSWC for its capital and operational needs” and to work cooperatively with the Company to create a plan to improve the capitalization of the Company. Motion at 1. The Public Staff also notes that information regarding the ownership of the Company and its relationship to Integra was still being revealed and clarified after settlement negotiations were concluded and until very shortly before the evidentiary hearing in this matter began. In fact, the Public Staff observes that on March 16, 2022, eight days after the evidentiary hearing, the Company made filings in 28 dockets to correct misstatements regarding the ownership of the Company. Accordingly, the Public Staff takes the position that it should not be bound in subsequent data requests to positions that it took or refrained from taking in connection with the rate case and the Stipulation. In the view of the Public Staff, it cannot thoroughly evaluate Integra’s ability to financially support the Company if it cannot evaluate Mr. McDonald’s ability to support Integra.

After careful consideration, the Presiding Commissioner rejects the implication that in issuing item 12 in Data Request 73 the Public Staff acted in bad faith or with any personal animus towards Mr. McDonald. No such evidence has been brought forward. The fact that the Public Staff may have sought his personal financial information in other dockets or may have taken positions that Mr. McDonald perceives to be adverse to his interests does not constitute such evidence. This type of argument is not one that should be made lightly. The Presiding Commissioner finds that the Public Staff has adequately explained why it interpreted its request for Mr. McDonald’s personal financial information as within the scope of what the Commission ordered in the Rate Case Order.

Nevertheless, the Presiding Commissioner finds good cause to deny the Motion to Compel and to that extent grant the relief sought by the Company in its Objection, namely that it need not respond to item 12 of Data Request 73. The Commission cannot compel Mr. McDonald to make his personal assets available to the Company, and thus will not compel Mr. McDonald to provide his personal financial information under the circumstances and justification currently presented in the Motion. Nothing in this Order prevents the Public Staff or the Commission from drawing inferences that logically flow from Mr. McDonald’s refusal to make his financial information available. Further, nothing in this order prevents the Commission — in this docket or any other — from requiring the Company to raise additional capital and from imposing consequences if it does not. The Presiding Commissioner, however, declines to grant the Company’s request for an order that the Public Staff may never seek Mr. McDonald’s financial information in the future.

IT IS, THEREFORE, ORDERED as follows:

1. That the Motion of the Public Staff to Compel is denied;
2. That if the Public Staff wishes to issue further data requests in this docket seeking Mr. McDonald’s personal financial information, it must file a motion demonstrating good cause; and

3. That the relief sought by the Company of an order that the Public Staff shall not conduct discovery on Mr. McDonald's personal finances in the future is denied.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of September, 2022.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Erica N. Green". The signature is written in a cursive style with a large, stylized initial "E".

Erica N. Green, Deputy Clerk